REMARKS

Claims 59-60 are pending. By this amendment, claims 32-58 are cancelled without disclaimer and to be pursued in a later or related application. New claims 59-60 are added. No new matter is added.

As an initial matter, the Oath of the above-identified Application will be resubmitted in a supplemental Amendment per the Examiner's request.

The Office Action also objects to the disclosure due to a minor typographical error, namely, the inadvertent inclusion of the word "Property" in a title. As is clearly evident by the Examiner's own comments, the Examiner easily found and identified the single application to which the instant application referenced both by the title and by the named inventors. In fact, Applicants point out that the Examiner has not identified any application that might be confused with Application 10/536,692. Thus, it is apparent that, despite any typographical error or other minor informality, Applicants have identified Application 10/536,692 with sufficient ease and clarity within the meaning of 37 CFR § 1.57. Therefore, appropriate amendment of the incorporation by reference statement cannot constitute or lead to the inclusion of new matter.

Issues Under 35 U.S.C. § 101

The Office Action rejects claims 37, 40, 48, 51, 55 and 58 under 35 USC §101. As these claims are cancelled, the rejection is moot, and therefore Applicants respectfully request withdrawal of the rejection.

Issues Under 35 U.S.C. § 112, Second Paragraph

The Office Action rejects claims 36, 37, 39, 40, 48-51, 55 and 58 under 35 U.S.C. § 112, second paragraph. As these claims are cancelled, the rejection is moot, and therefore Applicants respectfully request withdrawal of the rejection.

The Claims are Directed to Patentable Subject Matter

Foretich

The Office Action rejects claims 32-44, 48-58 under 35 USC §102(b) over Foretich; rejects claims 34 and 35 under 35 USC §103(a) over Foretich; and rejects claims 45-47 under 35 USC §103(a) over Foretich in view of Florance. These rejections are moot regarding claims 32-58 and respectfully traversed with respect to the new claims to the extent that they may apply.

In particular, Applicants assert that Foretich and Florance, individually or in combination, do not teach or suggest an information system for the delivery of real-estate related marketing and/or investment information to a plurality of users over a public network that includes an input device configured to receive one or more user-provided search parameters relating to residential properties, and a query device configured to generate at least a first report for the user based on the user-provided parameters, wherein the first report contains results of a differential value search (DVS) on a plurality of real-estate properties, a differential value search (DVS) being a search based on a difference in value between a property's AVM value and an offer for sale value for the respective property.

Further, Applicants assert that it would not have been obvious at the time of the invention to modify Foretich to teach or suggest query device configured to perform a differential value search (DVS).

As an initial matter, Applicants note the Examiner's issue of page 8 stating that "the actual parameters entered by the user are not part of the system." In response, Applicants assert that, even if true (which Applicant's respectfully disagree), such does not touch upon the issue of whether Foretich disclosing a differential value search.

As Foretich clearly does not teach, suggest or even appreciate performing a search based on an AVM value and an offer for sale value, the rejection under 35 USC §102 is improper. Further, Applicants respectfully point out that there is no cited motivation provided by Examiner

Further, per remarks made on page 7 that "*there is no functional relationship between the data and the system itself: data is just retrieved and output*," Applicants respectfully note that it

is an underlying function of most computer systems to manipulate, store and output data, yet if any decision-making is made by the computer based on the data then there is a functional relationship. As in the present circumstances, the output of a DVS is directly dependent on a database query and the relationship between a property's AVM and an offer for sale for the property. Thus, functionality is clearly provided.

Continuing, while the Office Action apparently has stripped all weight of the term "offer" as is does not lend structure to the term "price" in the Examiner's esteem, Applicants respectfully point out that the Examiner's conclusions of "a price is just a price" and "a number is a number" (pages 15-16) are not only in error, but ignores real world consequence. Practically all information can be reduced to "numbers" and all valuations "prices." However, to ignore the weight and significance of information merely because it may be reduced to "numbers" is to vitiate the patent laws and meaningful patent protection.

For example, taking the Examiner's viewpoint, every claim of U.S. Patent **7,043,445** to Bailey (issued by SPE John Weiss) cannot stand as they involve computer-based systems processing numbers in order to determine market demand (i.e., another number), which when carried to a user on some form of medium would equate to non-functional descriptive matter,

Similarly, claim 1 of U.S. Patent **7,260,542** to Yu (also issued by SPE John Weiss) cannot stand it involves computer-based systems processing numbers in order to provide a sensor orientation, which is but a number. As the bidding of claim 1 is nothing more than a common sorting routine of a computer, and bids and sensor orientation data nothing more than values, claim 1 of Yu may be said to be indistinguishable from the claims of the present application.

Respectfully, Applicants merely wish to remind the Examiner that patentable weight may not merely be ignored by equating one form of information with another. As shown above, an AVM and an offer for sale price have real world functions and real-world differences from other values/prices. Thus, a reduction of such information being nothing more than non-discernable numbers is in error.

Continuing, Applicants note the language of the Office Action on page 16 where paragraph [0162] discusses a database of stored values "*for later use*" and "*for use in later valuations or other processes*" and "*may be employed as comparables for later valuations as appropriate.*" The Office Action goes on to say that an "*AVM value is a type of data that a person of ordinary skill in the art is going to be concerned with*" and "*[a]nyone buying a house*

or giving out a financial loan for a house, is concerned with the value of the house itself (valuation/AVM)."

Respectfully, while the Office Action goes on to proclaim that this as "*a matter of common sense*", the entire argument put forth by the Office Action is wrought with errors, including:

(1) The assertion that the claimed subject matter is but "common sense" is belied in that it has apparently escaped the notice of the real estate community for decades, and once presented to the real estate community by Applicants, was immediately recognized for its innovative approach.

(2) To Applicants knowledge, anyone buying a house doesn't need to access a database of AVMs, and generally only might use a single AVM – as is the business model of Verovalue and its competitors.

(3) To Applicants knowledge, anyone providing a loan does not need to access a database of valuations, but needs only to have a single valuation (AVM, appraisal or whatever) generated. This practice is perfectly consistent with the teachings of Foretich, which provides a single valuation to the intended customer.

(4) As a matter of common sense, no person or lending body will ever rely on any valuation (AVM, appraisal or otherwise) that reflects anything but a current value of a property. Any valuation of any database of Foretich quickly loses any relevance as a legitimate indicator of current market value. Who, exactly, would rely on an appraisal more than six month old?

Regarding the Office Action's additional statement on pages 22-23 (quoting paragraph [0006] of Foretich) that "*[s]ince the loan-to-value ratio is of great significance to lenders in making loan decisions as well as in determining applicable loan programs and interest rates, it is almost always necessary for a property valuation to be undertaken in connection with the lending process,*" {underlined emphasis added by Examiner} Applicants merely ask "where does this require a database of AVMs?" Does it make sense that a lending officer will ask for the most recent valuation available or rely upon a valuation made months or (much more likely) years earlier.

Further, Applicants assert that, contrary to the statements made that lending officers are concerned with an offer for sale price, lending officers are concerned with two values: (1) the intrinsic value of the property, and (2) the amount of the loan.

Respectfully, the Office Action has displayed a complete misunderstanding of what a "loan-to-value ratio" (LTV) is. An LTV is the relationship, expressed as a percentage, of the amount of money loaned to the appraised value of the real estate pledged as security for the loan. For example, an $85,000 loan on a $100,000 house would have an LTV of 85%.[1]

Applicants respectfully request that definitions of terms of art be reviewed and understood, such as "loan-to-value ratio," before developing rejections that rely on such terms of art.

Continuing, the USPTO has recently published obviousness guidelines with respect to KSR v. Teleflex. More specifically, the USPTO has stated *"[i]f the search of the prior art and the resolution of the Graham factual inquiries reveal that an obviousness rejection may be made using the familiar teaching-suggestion-motivation (TSM) rationale, then such a rejection using the TSM rationale can still be made. Although the Supreme Court in* KSR *cautioned against an overly rigid application of TSM,* ***it also recognized that TSM was one of a number of valid rationales that could be used to determine obviousness.***" {bolded emphasis added}

Applicants respectfully point out that the cited motivations provided by Examiner Ruhl are not to be found in the applied art, an easily proved misapplication of fact and/or not apparent to be connected with any particular problem appreciated by those skilled in the art.

Applicants again point first to page 14 (Foretich) for which the Office Action relies on paragraph [0006] regarding the loan-to-value ratio of a loan. As mentioned above, it is apparent that the Examiner has no understanding of this term of art as mortgage lenders are not concerned with the sale price of a house, but the amount of money borrowed against it. The Examiner inserts a large number of factual inaccuracies in the continuing text. For example, while the Examiner asserts that 'the loan value for the mortgage lender is essentially the "offer for sale" price', this is patently false as AVMs are usable for loans only when the loan-to-value ratio is low. **As the rejection is based upon a false premise, the rejection is *de facto* invalid and therefore there is no *prima facie* case of obviousness.**

Accordingly, due consideration of the new claims is respectfully requested.

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[1] http://investordictionary.com/definition/loan-to-value+ratio.aspx

Tornetta

The Office Action rejects claims 32-38, 40 48-58 under 35 USC §102(b) over Tornetta. This rejection is moot regarding claims 32-58 and respectfully traversed with respect to the new claims

In particular, Applicants assert that Tornetta does not teach or suggest an information system for the delivery of real-estate related marketing and/or investment information to a plurality of users over a public network that includes an input device configured to receive one or more user-provided search parameters relating to residential properties, and a query device configured to generate at least a first report for the user based on the user-provided parameters, wherein the first report contains results of a differential value search (DVS) on a plurality of real-estate properties, a differential value search (DVS) being a search based on a difference in value between a property's AVM value and an offer for sale value for the respective property.

Further, Applicants assert that it would not have been obvious at the time of the invention to modify Tornetta to teach or suggest query device configured to perform a differential value search (DVS).

More particularly, Applicants point out that the Office Action has confused the applicable law of non-functional descriptive subject matter to extend from some form of medium containing information to an apparatus and/or a particular method useable to produce a medium containing information.

If the Examiner's legal approach were remotely valid, Applicants assert that practically no computer-based system involved with information processing would be patentable as they would merely differ in the kinds of data being searched and outputted. Similarly, new copier technology would be unpatentable as copiers merely output various kinds of non-functional data.

Applicants also point out that the Patent Office regularly issues patents to computer-based machines that merely differs in the kinds of data being searched and outputted. For example, claim 2 of U.S. Patent 7,302,414 to Cox (issued by Examiner Ruhl), is directed to

> 2. An electronic device comprising:
> a software-operated central processing unit;
> a software-operated data transmission unit ... [and]
> [a] central processing unit ... generating position information corresponding to a location of one of said respective data centers for which a successful connection setup occurs, and ... selecting one of said location-specific program units

As can be seen by claim 2, the central processing unit generates position information based on a form of search criteria, and merely outputs a selection, i.e., a form of outputted data. Applicants note that practically any computer-based device can be said generate information and make some form of algorithmic selection, and yet it is the differences seen in claim 2 and the prior art that made this claim patentable in the Examiner's judgment.

Accordingly, Applicant respectfully request due consideration of the new claims and prompt allowance.

Florance

The Office Action rejects claims 32, 43, and 45-47 under 35 USC §102(e) over Florance. This rejection is moot regarding claims 32-58 and respectfully traversed with respect to the new claims

In particular, Applicants assert that Florance does not teach or suggest and a query device configured to generate at least a first report for the user based on the user-provided parameters, wherein the first report contains results of a differential value search (DVS), nor does the Office Action make such an assertion. Accordingly, Applicant respectfully request due consideration of the new claims and prompt allowance.

Double Patenting

Applicants assert that the new claims are not subject to the double-patenting rejections of the present Office Action and/or will make the proper disclaimers or amendments after notice of allowable subject matter.

Conclusion

Thus, the independent claims contain patentable subject matter. The dependent claims, in turn, are patentable by virtue of their dependency as well as for the additional features they recite. Accordingly, withdrawal of all rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited. Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is welcomed to contact the undersigned attorney at the below-listed number and address.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiency or credit any overpayment to Deposit Account No. 14-0112.

Respectfully submitted,

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